

# Inspector General

United States  
Department of Defense



Evaluation of DoD Contracts Regarding  
Combating Trafficking in Persons:  
U.S. European Command and U.S. Africa Command

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# Inspector General

## United States Department of Defense

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One professional team strengthening the integrity, efficiency, and effectiveness of the Department of Defense programs and operations.

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Promote integrity, accountability, and improvement of Department of Defense personnel, programs and operations to support the Department's mission and serve the public interest.



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INSPECTOR GENERAL  
DEPARTMENT OF DEFENSE  
4800 MARK CENTER DRIVE  
ALEXANDRIA, VIRGINIA 22350-1500

January 17, 2012

MEMORANDUM FOR COMMANDER, U.S. EUROPEAN COMMAND  
COMMANDER, U.S. AFRICA COMMAND  
ASSISTANT SECRETARY OF THE ARMY FOR ACQUISITION,  
LOGISTICS, AND TECHNOLOGY  
ASSISTANT SECRETARY OF THE NAVY FOR RESEARCH,  
DEVELOPMENT AND ACQUISITION  
ASSISTANT SECRETARY OF THE AIR FORCE FOR  
ACQUISITION  
COMMANDER, U.S. ARMY EUROPE

SUBJECT: Evaluation of DOD Contracts Regarding Combating Trafficking in Persons:  
U.S. European Command and U.S. Africa Command  
(Report No. DODIG-2012-041)

We are providing this report for information and use.

We previously requested management comments on the draft of this statutorily required annual report from each organization. We received comments from U.S. Africa Command; U.S. Army Europe; the Office Assistant Secretary of the Army for Acquisition, Logistics, and Technology; the Office of the Assistant Secretary of the Navy for Research, Development, and Acquisition; and the Office of the Assistant Secretary of the Air Force for Acquisition and considered their comments in preparing this final report.

We have not received comments from U.S. European Command in time for inclusion into this final report. We request that they provide comments to us by February 17, 2012.

We appreciate all courtesies extended to the staff. Please direct questions to SPO@dodig.mil. We will provide a formal briefing on the results of our evaluation if management requests.

A handwritten signature in black ink, reading "K P Moorefield", is positioned above the printed name.

Kenneth P. Moorefield  
Deputy Inspector General  
for Special Plans and Operations

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# **Results in Brief: Evaluation of DoD Contracts Regarding Combating Trafficking in Persons: U.S. European Command and U.S. Africa Command**

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## **What We Did**

Section 232 of the “William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008,” Public Law 110-457 (December 23, 2008), requires the Inspectors General of the Department of Defense, the Department of State, and the United States Agency for International Development to investigate a sample of contracts for which there is a heightened risk that a contractor may engage in acts related to trafficking in persons.

In response, we reviewed a sample of 267 Department of Defense contracts for compliance with the “Trafficking Victims Protection Act of 2000,” title 22, United States Code, chapter 78 (as amended).

We reviewed contracts that had a place of performance in Combatant Command geographic areas of heightened risk for trafficking in persons, selecting the U.S. European Command and U.S. Africa Command areas of responsibility, specifically the Federal Republic of Germany, the Italian Republic, and the United Kingdom for this, our third evaluation.

We conducted site visits at 11 U.S. military installations in the Federal Republic of Germany and the Italian Republic, including the Headquarters of U.S. European Command and U.S. Africa Command. We reviewed summarized Department of Defense criminal investigative case data related to combating trafficking in persons that occurred in the U.S. European Command and U.S. Africa Command areas of operation. We also reviewed policy and procedures revised by responsible offices of the Department of Defense Components as a result of our prior Combating Trafficking in Persons reports regarding U.S. Pacific Command and U.S. Central Command.

## **What We Found**

As a result of our site visits and interviews, we found:

- While 70 percent of the contracts sampled contained some form of a Combating Trafficking in Persons clause, only half had the current required Federal Acquisition Regulation clause.
- Three DoD contracting organizations specifically discussed the Federal Acquisition Regulation Combating Trafficking in Persons clause during post-award orientations with contractors to increase awareness of Combating Trafficking in Persons.
- U.S. Central Command Joint Theater Support Contracting Command issued revised guidance to reinforce the requirement that the Federal Acquisition Regulation Combating Trafficking in Persons clause is mandatory for all contracts, and clarified the proper usage of the Command-issued Combating Trafficking in Persons clause 952.222-0001.

## What We Recommended

- The Assistant Secretaries for Acquisition of the Military Departments should ensure that the Federal Acquisition Regulation clause 52.222-50, “Combating Trafficking in Persons” is included in all contracts identified as deficient in our review.
- The Commander, U.S. European Command, and Commander, U.S. Africa Command, should ensure that existing contingency plans and operational planning guidance include combating trafficking in persons considerations.

## Client Comments and Our Response

The Offices of the Assistant Secretary of the Army for Acquisition, Logistics, and Technology; the Assistant Secretary of the Navy for Research, Development, and Acquisition; and the Assistant Secretary of the Air Force for Acquisition concurred with our recommendation, and provided a plan for correcting the deficient contracts.

U.S. Africa Command concurred with our recommendation, stating that their Inspector General will provide oversight of the applicable Directorates and planning offices to ensure that CTIP considerations are included in plans and command planning guidance for operation plans that include contract support. U.S. European Command did not provide comments in time for inclusion in this report. We request that they provide a response by February 17, 2012.

The draft of this report included an observation concerning CTIP considerations in pre-deployment training. The Commander, U.S. Army Europe, non-concurred with our recommendation, and stated that U.S. Army Europe was not the correct command to implement the described training requirements. We agreed with management’s comments and concluded that the observation was beyond the scope of this report. We deleted the observation from this final report and intend to address the larger, DoD-wide training issue at a later date.

## Recommendations Table

Client	Recommendations Requiring Comment	No Additional Comments Required
Assistant Secretary of the Army for Acquisition, Logistics, and Technology		1
Assistant Secretary of the Navy for Research, Development, and Acquisition		1
Assistant Secretary of the Air Force for Acquisition		1
Commander, U.S. European Command	2.a., 2.b.	
Commander, U.S. Africa Command		2.a., 2.b.

**Total Recommendations in this Report: 2**  
**Please provide responses by February 17, 2012.**

# Table of Contents

<b>Results in Brief: Evaluation of DoD Contracts Regarding Combating Trafficking in Persons: U.S. European Command and U.S. Africa Command .....</b>	<b>i</b>
What We Did .....	i
What We Found .....	i
What We Recommended .....	ii
Client Comments and Our Response .....	ii
Recommendations Table.....	ii
<b>Introduction .....</b>	<b>1</b>
Background.....	1
Objective.....	3
Scope .....	3
Methodology.....	3
<b>Results.....</b>	<b>5</b>
Combating Trafficking in Persons Clause Inclusion in Contracts .....	5
DoD Trafficking in Persons Criminal Investigative Reporting.....	9
Follow-up on Prior Recommendations .....	10
Proactive Practice of CTIP Programs .....	11
<b>Appendix A. Methodology and Acronyms.....</b>	<b>13</b>
Methodology.....	13
Acronyms.....	15
<b>Appendix B. Summary of Prior Coverage.....</b>	<b>17</b>
<b>Appendix C. Management Comments .....</b>	<b>19</b>
<b>Appendix D. Report Distribution.....</b>	<b>20</b>



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## Introduction

Over the past decade, Congress passed legislation to address its concern regarding allegations of contractor and U.S. Forces' involvement in sexual slavery, human trafficking, and debt bondage. Prior to 2000, allegations of sexual slavery, sex with minors, and human trafficking involving U.S. contractors in Bosnia and Herzegovina led to administrative and criminal investigations by U.S. Government agencies. In 2002, a local television news program aired a report alleging that women trafficked from the Philippines, Russia, and Eastern Europe were forced into prostitution in bars in South Korea frequented by U.S. military personnel, which resulted in an investigation and changes in DoD policy. In 2004, official reports chronicled allegations of forced labor and debt bondage against U.S. contractors in Iraq. These incidents, when confirmed, were contrary to U.S. Government policy regarding official conduct<sup>1</sup> and reflected poorly on DoD.

## Background

In 2000, the President signed into law two statutes responding in part to identified contractor and U.S. Forces' misconduct in Bosnia and Herzegovina: Public Law 106-386, which included the "Victims of Trafficking and Violence Protection Act of 2000," on October 28, and Public Law 106-523, "Military Extraterritorial Jurisdiction Act of 2000," on November 22.

The stated purposes of the first statute are "...to combat trafficking in persons [CTIP], a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims." The second statute established "Federal jurisdiction over offenses committed outside the United States by persons employed by or accompanying the Armed Forces, or by members of the Armed Forces who are released or separated from active duty prior to being identified and prosecuted for the commission of such offenses." Congress specifically extended this extraterritorial jurisdiction over trafficking in persons (TIP) offenses committed by persons employed by or accompanying the Federal Government outside the United States in Public Law 109-164, "Trafficking Victims Protection Reauthorization Act Of 2005," January 10, 2006.

Additional reauthorizations expanded the scope and applicability of the original statute. Public Law 108-193, the "Trafficking Victims Protection Reauthorization Act of 2003," December 19, 2003, gave the Government the added authority to terminate grants, contracts, or cooperative agreements for TIP-related violations.

The President shall ensure that any grant, contract, or cooperative agreement provided or entered into by a Federal department or agency under which funds are to be provided to a private entity, in whole or in part, shall include a condition that authorizes the department or agency to terminate the grant, contract, or cooperative agreement, without penalty, if the grantee or any subgrantee, or the contractor or any subcontractor (i) engages in severe forms of trafficking in persons or has procured a commercial sex act during the period of

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<sup>1</sup> Executive Order 13257 "President's Interagency Task Force To Monitor and Combat Trafficking in Persons," of February 13, 2002, and Executive Order 13333, "Amending Executive Order 13257 To Implement the Trafficking Victims Protection Reauthorization Act of 2003," March 18, 2004.

time that the grant, contract, or cooperative agreement is in effect, or (ii) uses forced labor in the performance of the grant, contract, or cooperative agreement.<sup>2</sup>

In 2006, the Civilian Agency Acquisition Council and the Defense Acquisition Council agreed on an interim rule implementing the above stated requirement, adding Federal Acquisition Regulation Subpart 22.17, “Combating Trafficking in Persons.” The regulation states that the “subpart applies to all acquisitions,” and paragraph 22.1705, “Contract clause” states:

- (a) Insert the clause at 52.222-50, Combating Trafficking in Persons, in all solicitations and contracts.
- (b) Use the basic clause with its Alternate I when the contract will be performed outside the United States (as defined at 25.003) and the contracting officer has been notified of specific U.S. directives or notices regarding combating trafficking in persons (such as general orders or military listings of “off-limits” local establishments) that apply to contractor employees at the contract place of performance.

The DoD Inspector General mandate for this evaluation is contained in Public Law 110-457, “William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008,” December 23, 2008. Subtitle D, section 232, which requires the Inspector General, for FYs 2010 through 2012, to:

“...investigate a sample of ... contracts, or subcontracts at any tier, under which there is a heightened risk that a contractor may engage, knowingly or unknowingly, in acts related to trafficking in persons, such as:

- (A) confiscation of an employee’s passport;
- (B) restriction on an employee’s mobility;
- (C) abrupt or evasive repatriation of an employee;
- (D) deception of an employee regarding the work destination; or
- (E) acts otherwise described in section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104).”

Section 232 of Public Law 110-457 also requires a report to Congress no later than January 15 for three consecutive years:

- (A) summarizing the findings of the investigations conducted in the previous year, including any findings regarding trafficking in persons or any improvements needed to prevent trafficking in persons; and
- (B) in the case of any contractor or subcontractor with regard to which the Inspector General has found substantial evidence of trafficking in persons, report as to—
  - (i) whether or not the case has been referred for prosecution; and
  - (ii) whether or not the case has been treated in accordance with section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104) (relating to termination of certain grants, contracts and cooperative agreements).

Report number IE-2010-001, “Evaluation of DoD Contracts Regarding Combating Trafficking in Persons,” January 15, 2010 (2010 CTIP Report), addressed contracts in the U.S. Pacific Command. The second report, SPO-2011-002, “Evaluation of DoD Contracts Regarding Combating Trafficking in Persons: U.S. Central Command,” January 18, 2011 (2011 CTIP Report), discussed the results of our review of selected construction and services contracts

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<sup>2</sup> The language is codified in section 7104g, title 22, United States Code (22 U.S.C. §7104g [2010]).

awarded in FYs 2009 and 2010 in the U.S. Central Command geographic area of responsibility.<sup>3</sup> This report, the third in a three-part series, addresses a review of selected contracts in the U.S. European Command and U.S. Africa Command geographic areas of responsibility with performance in FY 2011. We announced this series of evaluations on August 5, 2009.

## Objective

Our specific objective was to review a sample of DoD contracts for compliance with the “Trafficking Victims Protection Act of 2000,” 22 U.S.C. 78 (2010), as amended, and to summarize DoD CTIP investigative efforts.

## Scope

We examined 267 contracts solicited, awarded, or administered by Army, Navy, Marine Corps, and Air Force commands, as well as the Defense Agencies in the U.S. European Command and U.S. Africa Command geographic areas of responsibility: specifically, the Federal Republic of Germany, the United Kingdom, and the Italian Republic.

Our contract sample consisted of construction and service contracts performed in Europe or Africa, each with a total value of \$1 million or more and with a period of performance in FY 2011. We believe that this sample met the “heightened risk” standard stated in the statute (e.g., an increased opportunity “that a contractor may engage, knowingly or unknowingly, in acts related to trafficking in persons”).

## Methodology

We coordinated with the Inspectors General from the Department of State and the U.S. Agency for International Development prior to performing site visits. On July 19, 2011, we consulted with the Director of the Office to Monitor and Combat Trafficking in Persons at the Department of State. We also contacted selected DoD administrative and criminal investigation organizations to obtain TIP-related criminal statistic summaries.

We conducted site visits during September 2011, visiting the Headquarters of U.S. European Command and U.S. Africa Command, and 13 other DoD organizations on U.S. Forces’ installations in the Federal Republic of Germany and the Italian Republic. We did not conduct fieldwork in Africa. We interviewed military commanders and staff, contracting office staff, and contractor representatives involved with the contracts in our sample. We also interviewed Army and Air Force Exchange Service and Navy Exchange Service Command representatives to gain an understanding of CTIP efforts for non-appropriated fund activities.

The Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics generated a contract sample at our request using the Federal Procurement Data System-Next Generation database. We further reviewed the contracts in our sample using the DoD Defense Electronic Business Program Office’s Web-based Electronic Document Access database.

For a more detailed discussion of the project methodology, see Appendix A.

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<sup>3</sup> For copies of these reports, see <http://www.dodig.mil/Inspections/IPO/combatinghuman.htm>

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## Results

### Combating Trafficking in Persons Clause Inclusion in Contracts

#### Observation

In our review of a selected sample of contracts for construction and services within the U.S. European Command and U.S. Africa Command areas of responsibility, we found that 49 percent (132 out of 267) were missing, or included an outdated or incorrect version of Federal Acquisition Regulation (FAR) clause 52.222-50, “Combating Trafficking in Persons.” As a result, contractors may not have been aware of current U.S. Government policy and contracting officers were potentially unable to apply remedies in the case of violations.

#### Discussion

The Federal Acquisition Regulation (FAR) requires that all Federal solicitations and contracts contain clause 52.222-50, “Combating Trafficking in Persons,” or the clause with Alternate I modification for contracts with performance outside the U.S.<sup>4</sup> The team reviewed 267 DoD construction and services contracts for work in the Federal Republic of Germany, the Italian Republic, and the United Kingdom that had a period of performance in FY 2011, and provided the contracts sample list to the responsible Commands.



**Figure 1. Presence of the CTIP Clause in Sampled Contracts**

As shown in Figure 1, we found that 51 percent of the contracts (135 of 267) contained a proper version of the mandatory FAR CTIP clause, and 19 percent of the contracts (52 of 267) contained an incorrect citation. Incorrect citations included references to either an outdated version of FAR clause 52.222-50 or a regional clause developed for supplemental use in the U.S. Central Command area of responsibility, without inclusion of the mandatory FAR clause. In summary, over two thirds (70 percent) of the contracts reviewed included CTIP requirements in some form, while 30 percent of the contracts (80 of 267) did not contain any form of the FAR clause.

<sup>4</sup> FAR paragraph 22.1705 requires FAR clause 52.222-50 Alternate I when “the contract will be performed outside the United States...and the contracting officer has been notified of specific U.S. directives or notices regarding combating trafficking in persons...that apply to contractor employees at the contract place of performance.”

Unlike the contract lists for our previously published reviews of U.S. Pacific (the 2010 CTIP report) and U.S. Central Commands (the 2011 CTIP Report), the contract list for this review contained contracts with award dates as far back as 1999. The solicitation and contract award for 24 of the 80 contracts that did not contain any form of the FAR clause occurred prior to April 2006, the publication date of the original FAR CTIP clause. Inclusion of the clause in these contracts should have occurred when exercising options or during contract modifications.

Noncompliance with the requirement to include the FAR CTIP clause in contracts has two negative effects. First, contractors may not have been made aware of the U.S. Government's "zero tolerance" policy and self-reporting requirements regarding CTIP. Second, contracting officers were potentially unable to apply applicable remedies to correct contractor violations when the CTIP clause was not properly present. The number of contracts without any form of a CTIP clause indicates that additional effort is still necessary to ensure compliance.

From our interviews, we found that while general awareness of the U.S. Government's "zero tolerance" policy among contractors in Germany and Italy was low, circumstances mitigated potential risk. First, for the contracts we reviewed in the U.S. European Command and U.S. Africa Command, virtually all the employees working on the DoD contracts were predominantly either U.S. citizens or citizens of the host nation. The remaining were citizens of European Union countries. These workers had well-defined rights<sup>5</sup> and both their country of employment and home country had well-functioning law enforcement systems.<sup>6</sup> U.S. Command representatives explained that the German and Italian governments conducted background and security checks for all non-U.S. citizen employees, identifying national security and the desire to ensure tax revenue as factors that reduced the risks of TIP.

Second, personnel and physical security requirements implemented by the U.S. Army Europe since September 11, 2001, further limited the potential for severe forms of labor trafficking. U.S. security and provost marshal organizations reviewed and provided access badges for every contractor requiring access to U.S. facilities in Germany and Italy. Admittance to bases required passing through checkpoints where individual access badges were checked against a central database using the Installation Access Control System.<sup>7</sup>

As stated above, just under one-third of the contracts in the reviewed sample did not contain any form of the CTIP clause. However, Command representatives gave a variety of responses concerning the application of the "Christian Doctrine" to certain cases of TIP-related violations committed by contractors.<sup>8</sup> Under this doctrine, "a mandatory contract clause that expresses a significant or deeply ingrained strand of public procurement policy is considered to be included

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<sup>5</sup> Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.

<sup>6</sup> Germany and Italy both received Tier 1 placement by the Department of State. See Department of State, "Trafficking in Persons Report, June 2011," available at [www.state.gov/g/tip](http://www.state.gov/g/tip).

<sup>7</sup> Army in Europe Regulation 190-16, 22 March 2005 and <http://www.hqusareur.army.mil/opm/iacs/iacs.html>.

<sup>8</sup> *G.L. Christian & Associates v. United States*, 160 Ct. Cl. 1, 312 F.2d 418 (1963), rehearing denied, 160 Ct. Cl. 58, 320 F.2d 345, cert. denied, 375 U.S. 954, 84 S. Ct. 444, 11 L. Ed. 2d 314, 1963 U.S. LEXIS 24 (1963).

in a contract by operation of law.”<sup>9</sup> Specifically, the doctrine means that contractors might be responsible for adhering to TIP laws even if the contract did not include the FAR CTIP clause.

However, subsequent courts have held that the Christian Doctrine does not permit the automatic incorporation of every required contract clause.<sup>10</sup> Therefore, it is unclear whether, under all circumstances, the CTIP clause will be automatically incorporated by law into all contracts. In any event, the litigation required to apply the Christian Doctrine would unnecessarily complicate and delay enforcement of the CTIP clause. At best, the Christian Doctrine is an after-the-fact remedy for a failure to include the appropriate clauses in the contract.

The low TIP incident rate in countries that the Department of State categorized as Tier 1 that also have permanent U.S. military bases (e.g., Germany, Italy, and Spain) provided DoD personnel assigned to U.S. European Command and U.S. Africa Command virtually no experience with TIP-related situations in those countries. However, the risk was higher for deployments and associated contracting actions in the Commands’ areas of responsibility: countries in Eastern Europe and on the African continent. The annual Trafficking in Persons report published by the Department of State categorizes a majority of the countries in Eastern Europe as “countries whose governments do not fully comply with the TVPA’s [Trafficking Victims Protection Act] minimum standards,” (Tier 2), and all but two of the 52 countries on the African continent that they reviewed and rated as Tier 2 or worse.<sup>11</sup>

As of September 2011, Command representatives stated that they had limited presence in those countries. This may change in the future, and both Commands will need to consider this additional risk when planning for future deployments and stationing.

**Recommendation 1:** The Assistant Secretary of the Army for Acquisition, Logistics, and Technology; Assistant Secretary of the Navy for Research, Development, and Acquisition; and the Assistant Secretary of the Air Force for Acquisition should ensure that the Federal Acquisition Regulation clause 52.222-50, “Combating Trafficking in Persons” is included in all contracts identified as deficient in our review.

**Recommendation 2:** The Commander, U.S. European Command, and Commander, U.S. Africa Command, should ensure that:

- a. Existing contingency plans include combating trafficking in persons considerations as relevant; and,
- b. Command planning guidance includes combating trafficking in persons considerations as part of every operations plan that includes contract support.

<sup>9</sup> *Amoroso Construction Co. v. United States*, 12 F.3d 1072, 1075 (Fed. Cir. 1993), citing *General Engineering & Mach. Works v. O’Keefe*, 991 F.2d 775, 779 (Fed. Cir. 1993).

<sup>10</sup> *General Engineering & Mach. Works v. O’Keefe*, 991 F.2d 775, 779 (Fed. Cir. 1993).

<sup>11</sup> Department of State, “Trafficking in Persons Report”, June 2011,” available at [www.state.gov/g/tip](http://www.state.gov/g/tip).

### ***Client Comments and Our Response***

The Offices of the Assistant Secretary of the Army for Acquisition, Logistics, and Technology; the Assistant Secretary of the Navy for Research, Development, and Acquisition, and the Assistant Secretary of the Air Force for Acquisition concurred with our recommendation, and provided a plan for correcting the deficient contracts.

U.S. Africa Command concurred with our recommendation, stating that their Inspector General will provide oversight of the applicable Directorates and planning offices to ensure that CTIP considerations are included in plans and command planning guidance for operation plans that include contract support. U.S. European Command did not provide comments in time for inclusion in this report. We request that they provide a response by February 17, 2012.

## DoD Trafficking in Persons Criminal Investigative Reporting

Section 108 of Public Law 110-457 amended 22 U.S.C. §7109a, “Trafficking Victims Protection,” to require that an integrated U.S. government database be established that provides “an effective mechanism for quantifying the number of victims of trafficking on a national, regional, and international basis....” The statute required the database to combine “all applicable data collected by each Federal department and agency represented on the Interagency Task Force to Monitor and Combat Trafficking....”<sup>12</sup>

We requested reports from the Defense Criminal Investigative Service, and the Army, Navy, and Air Force Military Criminal Investigation Organizations summarizing TIP-related criminal investigative activity under their purview from September 1, 2010, to August 31, 2011. The reports provided a summary of the DoD case data contributing to the national database. The summaries included three TIP-related incidents involving, or alleging the involvement, of DoD contractor or sub-contractor employees. None of the TIP-related incidents occurred in the U.S. European Command and U.S. Africa Command areas of operations.

The U.S. Army investigated an allegation that Philippine women were being sold into sexual and domestic servitude for DoD contractor personnel at Ali Al Salem Air Base, Kuwait, and that their passports had been withheld, preventing them from leaving the country. The U.S. Army investigated allegations against an individual with no DoD or DoD-contractor affiliation, as well as three DoD contractor personnel. The investigators found sufficient evidence to support an allegation of Transnational Slavery (under the Kuwait Criminal Code) against the non-DoD individual, whose case was referred to and accepted by the Kuwait Criminal Investigation Division in September 2010. U.S. Army investigators determined that allegations against the three DoD contractor personnel were unfounded.

The U.S. Air Force initiated an investigation on April 28, 2011, based upon information alleging that a subcontractor in Iraq was delaying the payment of salaries from its contracted drivers for a period of three to four months, withholding their passports, and coercing employees to sign employment contracts under threat of abandonment. On July 15, 2011, the information pertaining to human trafficking was passed to the office of the Federal Bureau of Investigation at the U.S. Embassy, in Baghdad, Iraq for investigation.

The Defense Criminal Investigative Service had an open investigation of possible labor-related human trafficking violations by a sub-contractor in Afghanistan. As of December 2011, the investigation was ongoing.

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<sup>12</sup> Public Law 110-457, “William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008,” section 108, “Research on Domestic and International Trafficking in Persons.”



## Follow-up on Prior Recommendations

### ***Usage of Localized Combating Trafficking In Persons Clauses***

In the 2010 CTIP Report, we observed that U.S. Central Command Joint Theater Support Contracting Command had issued acquisition instructions requiring the addition of a regional CTIP clause, without explicitly reinforcing inclusion of the required FAR clause. As a result, we identified over 65 contracts that contained U.S. Central Command Joint Theater Support Contracting Command clause 952.222-0001, “Prohibition Against Human Trafficking, Inhumane Living Conditions, and Withholding of Employee Passports,” while excluding the mandatory FAR clause 52.222-50.

We recommended that the Commander, U.S. Central Command Contracting Command, should:

- a. Ensure that Federal Acquisition Regulation clause 52.222-50, “Combating Trafficking in Persons,” or Alternate I, is included in all contracts; and
- b. Provide additional guidance to clarify proper usage of the U.S. Central Command Contracting Command clause 952.222-0001, “Prohibition Against Human Trafficking, Inhumane Living Conditions, and Withholding of Employee Passports.”

In response, the U.S. Central Command Joint Theater Support Contracting Command issued revised guidance on September 01, 2011, that reinforced the requirement that the FAR CTIP clause is mandatory for all contracts and clarified the proper usage of the Command-issued CTIP clause 952.222-0001.

### ***U.S. Central Command: Contractor Demobilization***

In their September 2011 update to their acquisition instruction, the Commander, U.S. Central Command Joint Theater Support Contracting Command issued contract clauses addressing contractor demobilization in the Republic of Iraq and the Islamic Republic of Afghanistan.<sup>13</sup>

The instruction directs the inclusion of these clauses in all solicitations and contracts except those for commodities. The policy describes the accountability of prime and subcontractor personnel. The clause for operations in the Islamic Republic of Afghanistan states:

Whether specifically written into the contract or not,...any persons brought into the Afghanistan CJOA [Combined Joint Operations Area] for the sole purposes of performing work on USG [U.S. Government] contracts, contract employers will return employees to their point of origin/home country once the contract is completed or their employment is terminated for any reason.

The clause applicable in the Republic of Iraq contains the same language, substituting “Iraq” for “Afghanistan.” The clauses explicitly make the prime contractors responsible and accountable

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<sup>13</sup> U.S. Central Command Joint Theater Support Contracting Command Acquisition Instruction, September 01, 2011, clauses 952.225-0016, “Contractor Demobilization (Afghanistan),” and 952.225-0017, “Contractor Demobilization (Iraq).”

for their actions, the actions of subcontractors at all tiers, and include remedies for non-compliance.

The new clauses supplement FAR CTIP clause 52.222-50 (or Alternate I, as applicable) and U.S. Central Command Joint Theater Support Contracting Command supplementary CTIP clause 952.222-0001.

We contacted the responsible offices of the DoD Components, and have determined that they have addressed all other prior recommendations from the 2010 CTIP Report and 2011 CTIP Report.

## **Proactive Practice of CTIP Programs**

During our review of the U.S. European Command and U.S. Africa Command CTIP programs, the team observed an excellent example of an organizational activity that addressed CTIP requirements.

### ***Post Award Orientation***

Federal Acquisition Regulation subpart 42.5, “Postaward Orientation,” prescribes policies and procedures for the post-award orientation of contractors and subcontractors through a conference, letter, or other form of written communication. While not required, a contracting office may choose to hold a meeting with a contractor in order to “(1) achieve a clear and mutual understanding of all contract requirements, and (2) identify and resolve potential problems.”<sup>14</sup> Defense Federal Acquisition Regulation Supplement section 242.503, “Postaward Orientation,” provides a standard form for use throughout DoD.<sup>15</sup>

During our site visit, the U.S. Army Corps of Engineers European District Office and the 409<sup>th</sup> Regional Contracting Office in Wiesbaden, Germany, and the 31<sup>st</sup> Contracting Squadron in Aviano, Italy, demonstrated that they held post-award briefings with contractors that explicitly included a discussion of FAR CTIP clause requirements. This raised contractor awareness, informed the contractor of the U.S. Government “zero tolerance” policy regarding TIP, and clarified expectations concerning worker treatment and the reporting of TIP or related incidents to the U.S. Government.

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<sup>14</sup> Federal Acquisition Regulation subpart 42.5, “Postaward Orientation.”

<sup>15</sup> Department of Defense Form 1484, “Post-Award Conference Record,” April 1986, accessed at <http://www.acq.osd.mil/dpap/dars/dfars/html/r20061109/253303.htm>.

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# Appendix A. Methodology and Acronyms

## Methodology

We announced this series of evaluations on August 5, 2009. We examined statutes, policies, procedures, and management and oversight reports relevant to DoD policy and practices regarding efforts to combat trafficking in persons.

We conducted this evaluation of a sample of contracts from the U.S. European Command and U.S. Africa Command areas of responsibility from June to November 2011, in accordance with the standards established by the President's Council on Integrity and Efficiency (now the Council of the Inspectors General on Integrity and Efficiency) and published in the *Quality Standards for Inspections and Evaluations*, January 2011. The evidence we obtained provides a reasonable basis for our observations and conclusions in concert with our objectives.

We selected the U.S. European Command and U.S. Africa Command areas of responsibility as areas satisfying the "heightened risk" standard required by statute.<sup>16</sup> This decision was based on reports of prior human trafficking incidents in the region and country "tier placements" in the Department of State's "Trafficking in Persons Report," June 2011.

We met with the DoD CTIP program office, located within the office of the Under Secretary of Defense for Personnel and Readiness. We coordinated with Inspectors General from the Department of State and U.S. Agency for International Development. On July 19, 2011 we consulted with the Director of the Office to Monitor and Combat Trafficking in Persons of the Department of State. We contacted selected DoD administrative and criminal investigation organizations to obtain summaries of criminal statistics related to trafficking in persons, as well as case synopses of those that identified a DoD contractor or sub-contractor as a subject. A common set of search terms was used for database queries.

We conducted site fieldwork during September 2011 at U.S. European Command and U.S. Africa Command Headquarters in Stuttgart, Germany, and 13 other DoD organizations on U.S. Forces installations in the Federal Republic of Germany and the Italian Republic. We did not conduct fieldwork in Africa because the U.S. Africa Command does not yet have a significant presence on the African continent.

The team conducted over 70 interviews with military commanders, contracting office staff, and others to discuss CTIP issues. We performed sensing sessions with 60 contracting officer staff in the Army, Navy, Air Force and Defense Contract Management Agency contracting units to gauge awareness of CTIP efforts. We discussed CTIP implementation in non-appropriated fund contracts with Army and Air Force Exchange Services and Navy Exchange Service representatives. In addition, we interviewed representatives from 30 contractors, discussing contractor self-reporting and training mechanisms.

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<sup>16</sup> Public Law 110-457, "William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008," section 232. See page 2 of this report.

We developed a sample of contracts through a data request submitted to the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics. The Defense Procurement and Acquisition Policy Office generated our contract sample list from the Federal Procurement Data System-Next Generation database.

Our selection criteria were contracts for construction and services with a: place of performance in the U.S. European Command and U.S. Africa Command areas of operation, a period of performance in FY 2011, and total contract value (including options) of \$1 million or greater. This resulted in a total sample size of 267 contracts with contract performance in Federal Republic of Germany, the Italian Republic, and the United Kingdom. These constraints provided us with a reasonable data set that was current and included labor-intensive efforts with significant numbers of short- and medium-term employees susceptible to forced labor practices.

We reviewed sampled contracts to determine if the mandatory Federal Acquisition Regulation clause 52.222-50 or Alternate I (when the contract was performed outside the U.S.) was included. While we did not interview representatives from all of the contracting offices responsible for the contracts in our sample, we can confirm that a majority of the contracts in our sample were written using the Standard Procurement System / Procurement Desktop Defense software application.

### ***Use of Computer-Processed Data***

We reviewed contract documents using the Defense Electronic Business Program Office Electronic Document Access database, which provided the most efficient source for the information required. The DoD Chief Information Officer directed all DoD Components to use the Electronic Document Access database, but Components remained responsible for the accuracy, authenticity, integrity, and timeliness of submitted documents.<sup>17</sup> We did not assess database reliability or test the sample for completeness. We did not attempt to project additional results from our sample and believe the sample reviewed was sufficient to support our conclusions.

### ***Contract Sample Scope Limitation***

Our contract list initially included contracts written under authorities not governed by the FAR.

- Auftragsbautengrundsätze-1975<sup>18</sup> – The Auftragsbautengrundsätze, signed in 1975, is an international agreement between the Federal Republic of Germany, and the United States of America, Canada, Great Britain, the Kingdom of Belgium, the Netherlands, and the French Republic. The agreement defines procedures for designing, planning, and executing construction works in support of foreign military forces in Germany. The German Construction Agency accomplishes construction projects under this authority on behalf of the U.S. Forces using German contracting procedures and adhering to German law.

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<sup>17</sup> “DoD Electronic Document Access (EDA) Business Rules,” DoD Chief Information Officer memorandum, November 5, 2001.

<sup>18</sup> The English translation for “Auftragsbautengrundsätze,” is “Base principles for construction contracts.”



- North Atlantic Treaty Organization (NATO) Maintenance and Supply Agency – The Agency was created by 28 NATO nations with the purpose of achieving maximum effectiveness in logistics support at minimum cost to those nations, both individually and collectively. The NATO Maintenance and Supply Agency obtains goods and services from contractors located in any of the participating nations, following rules and provisions described within Procurement Regulations (Functional Directive) Number 251-01, 1st Revision including Amendment 2, 19 June 2009.
- Acquisition and Cross-Servicing Agreements – These agreements with U.S. allies or coalition partners allow U.S. forces to exchange common types of support, including food, fuel, transportation, ammunition, and equipment. The U.S. has concluded Acquisition and Cross-Servicing Agreements with 76 countries, including most NATO nations, the NATO Maintenance and Supply Agency, NATO Allied Command Transformation, and Supreme Headquarters Allied Powers Europe. These agreements are used for contingencies, peacekeeping operations, unforeseen emergencies, or exercises to address logistic deficiencies that cannot be adequately corrected by national means. The support received or given is reimbursed in cash, replacement in kind, or equal value exchange under the conditions of the agreement.
- Host Nation Utility Contracts – The NATO Status of Forces Supplementary Agreements assign responsibility to host nations to provide water, gas, electricity, and sewage disposal on a reimbursable basis. The provision of utilities was governed by host nation laws and only a specific set of provisions and clauses were allowed by the host nation to be incorporated into the contract.

Exclusion of the 54 contracts awarded under these four authorities reduced our initial sample size from 321 to the 267 contracts reviewed for this report.

## Acronyms

CTIP	Combating Trafficking in Persons
FAR	Federal Acquisition Regulation
NATO	North Atlantic Treaty Organization
TIP	Trafficking in Persons
U.S.C.	United States Code

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## **Appendix B. Summary of Prior Coverage**

### **Department of Defense Inspector General**

DoDIG Report No. IE-2007-002, "Evaluation of DoD Efforts to Combat Trafficking in Persons," November 21, 2006.

DoDIG Report No. IE-2010-001, "Evaluation of DOD Contracts Regarding Combating trafficking in Persons," January 15, 2010.

DoDIG Report No. SPO-2011-002, "Evaluation of DoD Contracts Regarding Combating Trafficking in Persons: U.S. Central Command," January 18, 2011.

Unrestricted DoDIG reports can be accessed over the Internet at  
<http://www.dodig.mil/PUBS/index.html>

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## Appendix C. Management Comments

As discussed beginning on page 7, we requested and received comments to a draft of this report from the Offices of the Assistant Secretary of the Army for Acquisition, Logistics, and Technology; the Assistant Secretary of the Navy for Research, Development, and Acquisition; and the Assistant Secretary of the Air Force for Acquisition; as well as U.S. Africa Command. U.S. European Command did not provide comments in time for inclusion in this report. We request they provide a response to our recommendations regarding the inclusion of the FAR CTIP clause in contracts we reviewed.

The draft of this report included an observation concerning CTIP considerations in pre-deployment training. Specifically, we discussed the inclusion of CTIP-related tasks in exercise scenarios at the Army Joint Multinational Training Command and Joint Multinational Readiness Center. We recommended that the Commander, U.S. Army Europe should include CTIP-related tasks in the standard task list for leaders training and consider these tasks when developing simulated training exercises.

The Commander, U.S. Army Europe, non-concurred with our recommendation and stated that U.S. Army Europe was not the correct command to implement the described training requirements. The response further explained that the designation of pre-deployment training conducted at the Joint Multinational Readiness Center was influenced by: the Combat Training Center plan of the Office of the Chief of Staff of the Army; tasks designated by the Commander, U.S. Army Forces Command; and the Combatant Commander with responsibility for the contingency.

We agreed with management's comments and concluded that the observation was beyond the scope of this report. We deleted the observation from this final report and will address the larger, DoD-wide training issue in a different product.

## **Appendix D. Report Distribution**

### **Office of the Secretary of Defense**

Under Secretary of Defense for Personnel and Readiness  
Director, Law Enforcement Policy and Support

### **Department of the Army**

Assistant Secretary of the Army for Acquisition, Logistics, and Technology\*

### **Department of the Navy**

Assistant Secretary of the Navy for Research, Development, and Acquisition\*

### **Department of the Air Force**

Assistant Secretary of the Air Force for Acquisition\*

### **Combatant Commands**

Commander, U.S. European Command\*  
Commander, U.S. Army Europe\*  
Commander, U.S. Africa Command\*

### **Congressional Committees**

Senate Committee on Armed Services  
Senate Committee on Foreign Relations  
House Committee on Armed Services  
House Committee on Foreign Affairs

\* Recipient of the draft report

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